

Add Section 7269 to the Transactions and Use Tax Law to provide for a limitation on redistributions of transactions and use taxes.

Source: Legal Department

Existing Law

Under the existing Bradley-Burns Uniform Local Sales and Use Tax Law, counties are authorized to impose a local sales and use tax at a rate of one percent on the sales price of tangible personal property sold at retail in the county. Cities are also authorized to impose a local sales and use tax rate of up to 0.75 percent, which is credited against the county rate so that the combined local tax rate under the Bradley-Burns Law does not exceed one percent. Under the Bradley-Burns Law, 0.25 percent of the one percent tax rate is earmarked for county transportation purposes, and 0.75 percent may be used for city and county general purposes. Cities and counties are required to contract with the Board to perform all functions in the administration and operation of their ordinances imposing the tax. All taxes collected by the Board under contract with cities and counties are transmitted to the cities and counties based on the location in which the sale is made (generally the place of business of the retailer).

Under the law, Section 7209 provides that when the Board determines that the Bradley-Burns Uniform local sales and use tax revenue has been misallocated to a county or city, the Board may redistribute that revenue, but shall not redistribute amounts originally distributed earlier than two quarterly periods prior to the quarterly period in which the Board made that determination.

Section 7209 was added to the law in 1959, as the Legislature realized that when the first local tax redistributions were proposed at that time, redistributing tax throughout the full length of the three-year applicable statute of limitations would cause severe financial hardship to jurisdictions to which local tax revenues had been improperly distributed. As a result, the Legislature enacted Section 7209 to limit the number of tax periods for which a redistribution could be made to the quarterly period for which the Board obtains knowledge of the improper distribution, and the two previous quarters.

Under the law, aside from the local tax levied under the Bradley-Burns law (which is uniformly imposed by all cities and counties within the state) the Transactions and Use Tax Law authorizes local agencies to impose transactions and use taxes – often referred to as “district” taxes. These “district” taxes are authorized by statutes in various codes, but the Board administers all such taxes pursuant to Part 1.6 of the Revenue and Taxation Code (sections 7251-7279.6).

Under current law, no equivalent to Section 7209 exists for district taxes. While district tax redistributions do not take place with the frequency that they do with respect to the Bradley-Burns local taxes, the financial hardship to the district to which the revenue was improperly distributed can be great.

This Proposal

This proposal would therefore provide the same relief to districts that has been available to local tax jurisdictions since 1959. It would limit the number of tax periods for which a redistribution could be made to the quarterly period for which the Board obtains knowledge of an improper distribution, and the two previous quarters.

Due to the anticipated proliferation of city-wide district taxes, the Board anticipates an increase in errors in district tax reporting with a concomitant need to redistribute district taxes. Consequently, this proposal would place a limit on redistributions of district tax similar to that which now exists in local taxes.

Section 7269 is added to the Revenue and Taxation Code to read:

7269. The board may redistribute tax, penalty and interest distributed to a district other than the district entitled thereto, but such redistribution shall not be made as to amounts originally distributed earlier than two quarterly periods prior to the quarterly period in which the board obtains knowledge of the improper distribution.